

HOUSE BILL No. 1205

DIGEST OF INTRODUCED BILL

Citations Affected: IC 34-13-3-3; IC 34-24-1-1; IC 35-31.5-2; IC 35-42-2-1; IC 35-43-1-2; IC 35-44.1-2-14; IC 35-45; IC 35-50-2-19; IC 36-8-2.7.

Synopsis: Rioting. Removes immunity under the Indiana tort claims act for the failure to enforce a law if the failure to enforce the law: (1) occurs in connection with an unlawful assembly; and (2) constitutes gross negligence. Requires a person convicted of a battery against a law enforcement officer, firefighter, or emergency medical services provider to: (1) serve a mandatory minimum sentence of 30 or 90 days, depending on the severity of the injury; and (2) make restitution to the victim. Defines "tumultuous conduct" and "unlawful assembly" for purposes of the rioting statute, and requires a person convicted of rioting to: (1) serve a mandatory minimum sentence of 30 days; and (2) make restitution to the victim. Defines "camp" and "state capitol and related property", and makes unlawful camping on state capitol and related property a Class A misdemeanor. Allows for the civil forfeiture of property that is used by a person to finance a crime committed by a person while a (lawful or unlawful) protest was taking place. Adds enhanced penalties to the crimes of: (1) rioting; (2) criminal mischief; (3) intimidation; and (4) disorderly conduct. Adds a sentence enhancement to battery committed while a (lawful or unlawful) protest was taking place. Defines "defunding law enforcement" and allows a person to bring an action to enjoin a local unit from defunding law enforcement.

Effective: July 1, 2021.

**McNamara, Steuerwald, Bartels,
VanNatter**

January 14, 2021, read first time and referred to Committee on Courts and Criminal Code.



First Regular Session of the 122nd General Assembly (2021)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2020 Regular Session of the General Assembly.

HOUSE BILL No. 1205

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 34-13-3-3, AS AMENDED BY P.L.65-2016,
2 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2021]: Sec. 3. A governmental entity or an employee acting
4 within the scope of the employee's employment is not liable if a loss
5 results from the following:

- 6 (1) The natural condition of unimproved property.
- 7 (2) The condition of a reservoir, dam, canal, conduit, drain, or
- 8 similar structure when used by a person for a purpose that is not
- 9 foreseeable.
- 10 (3) The temporary condition of a public thoroughfare or extreme
- 11 sport area that results from weather.
- 12 (4) The condition of an unpaved road, trail, or footpath, the
- 13 purpose of which is to provide access to a recreation or scenic
- 14 area.
- 15 (5) The design, construction, control, operation, or normal
- 16 condition of an extreme sport area, if all entrances to the extreme
- 17 sport area are marked with:



- 1 (A) a set of rules governing the use of the extreme sport area;
- 2 (B) a warning concerning the hazards and dangers associated
- 3 with the use of the extreme sport area; and
- 4 (C) a statement that the extreme sport area may be used only
- 5 by persons operating extreme sport equipment.
- 6 This subdivision shall not be construed to relieve a governmental
- 7 entity from liability for the continuing duty to maintain extreme
- 8 sports areas in a reasonably safe condition.
- 9 (6) The initiation of a judicial or an administrative proceeding.
- 10 (7) The performance of a discretionary function; however, the
- 11 provision of medical or optical care as provided in IC 34-6-2-38
- 12 shall be considered as a ministerial act.
- 13 (8) The adoption and enforcement of or failure to adopt or
- 14 enforce:
- 15 (A) a law (including rules and regulations); or
- 16 (B) in the case of a public school or charter school, a policy;
- 17 unless the act of enforcement constitutes false arrest or false
- 18 imprisonment. **However, this subdivision does not apply to the**
- 19 **failure to enforce a law in connection with an unlawful**
- 20 **assembly (as defined in IC 35-31.5-2-341), if the failure to**
- 21 **enforce the law constitutes gross negligence.**
- 22 (9) An act or omission performed in good faith and without
- 23 malice under the apparent authority of a statute which is invalid
- 24 if the employee would not have been liable had the statute been
- 25 valid.
- 26 (10) The act or omission of anyone other than the governmental
- 27 entity or the governmental entity's employee.
- 28 (11) The issuance, denial, suspension, or revocation of, or failure
- 29 or refusal to issue, deny, suspend, or revoke any permit, license,
- 30 certificate, approval, order, or similar authorization, where the
- 31 authority is discretionary under the law.
- 32 (12) Failure to make an inspection, or making an inadequate or
- 33 negligent inspection, of any property, other than the property of
- 34 a governmental entity, to determine whether the property
- 35 complied with or violates any law or contains a hazard to health
- 36 or safety.
- 37 (13) Entry upon any property where the entry is expressly or
- 38 impliedly authorized by law.
- 39 (14) Misrepresentation if unintentional.
- 40 (15) Theft by another person of money in the employee's official
- 41 custody, unless the loss was sustained because of the employee's
- 42 own negligent or wrongful act or omission.



(16) Injury to the property of a person under the jurisdiction and control of the department of correction if the person has not exhausted the administrative remedies and procedures provided by section 7 of this chapter.

(17) Injury to the person or property of a person under supervision of a governmental entity and who is:

(A) on probation; or

(B) assigned to an alcohol and drug services program under IC 12-23, a minimum security release program under IC 11-10-8, a pretrial conditional release program under IC 35-33-8, or a community corrections program under IC 11-12.

(18) Design of a highway (as defined in IC 9-13-2-73), toll road project (as defined in IC 8-15-2-4(4)), tollway (as defined in IC 8-15-3-7), or project (as defined in IC 8-15.7-2-14) if the claimed loss occurs at least twenty (20) years after the public highway, toll road project, tollway, or project was designed or substantially redesigned; except that this subdivision shall not be construed to relieve a responsible governmental entity from the continuing duty to provide and maintain public highways in a reasonably safe condition.

(19) Development, adoption, implementation, operation, maintenance, or use of an enhanced emergency communication system.

(20) Injury to a student or a student's property by an employee of a school corporation if the employee is acting reasonably under a:

(A) discipline policy adopted under IC 20-33-8-12; or

(B) restraint and seclusion plan adopted under IC 20-20-40-14.

(21) An act or omission performed in good faith under the apparent authority of a court order described in IC 35-46-1-15.1 or IC 35-46-1-15.3 that is invalid, including an arrest or imprisonment related to the enforcement of the court order, if the governmental entity or employee would not have been liable had the court order been valid.

(22) An act taken to investigate or remediate hazardous substances, petroleum, or other pollutants associated with a brownfield (as defined in IC 13-11-2-19.3) unless:

(A) the loss is a result of reckless conduct; or

(B) the governmental entity was responsible for the initial placement of the hazardous substances, petroleum, or other pollutants on the brownfield.

(23) The operation of an off-road vehicle (as defined in



IC 14-8-2-185) by a nongovernmental employee, or by a governmental employee not acting within the scope of the employment of the employee, on a public highway in a county road system outside the corporate limits of a city or town, unless the loss is the result of an act or omission amounting to:

- (A) gross negligence;
- (B) willful or wanton misconduct; or
- (C) intentional misconduct.

This subdivision shall not be construed to relieve a governmental entity from liability for the continuing duty to maintain highways in a reasonably safe condition for the operation of motor vehicles licensed by the bureau of motor vehicles for operation on public highways.

(24) Any act or omission rendered in connection with a request, investigation, assessment, or opinion provided under IC 36-9-28.7.

SECTION 2. IC 34-24-1-1, AS AMENDED BY P.L.142-2020, SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 1. (a) The following may be seized:

(1) All vehicles (as defined by IC 35-31.5-2-346), if they are used or are intended for use by the person or persons in possession of them to transport or in any manner to facilitate the transportation of the following:

(A) A controlled substance for the purpose of committing, attempting to commit, or conspiring to commit any of the following:

- (i) Dealing in or manufacturing cocaine or a narcotic drug (IC 35-48-4-1).
- (ii) Dealing in methamphetamine (IC 35-48-4-1.1).
- (iii) Manufacturing methamphetamine (IC 35-48-4-1.2).
- (iv) Dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2).
- (v) Dealing in a schedule IV controlled substance (IC 35-48-4-3).
- (vi) Dealing in a schedule V controlled substance (IC 35-48-4-4).
- (vii) Dealing in a counterfeit substance (IC 35-48-4-5).
- (viii) Possession of cocaine or a narcotic drug (IC 35-48-4-6).
- (ix) Possession of methamphetamine (IC 35-48-4-6.1).
- (x) Dealing in paraphernalia (IC 35-48-4-8.5).
- (xi) Dealing in marijuana, hash oil, hashish, or salvia (IC



- 1 35-48-4-10).
- 2 (xii) An offense under IC 35-48-4 involving a synthetic drug
- 3 (as defined in IC 35-31.5-2-321), a synthetic drug lookalike
- 4 substance (as defined in IC 35-31.5-2-321.5 (before its
- 5 repeal on July 1, 2019)) under IC 35-48-4-10.5 (before its
- 6 repeal on July 1, 2019), a controlled substance analog (as
- 7 defined in IC 35-48-1-9.3), or a substance represented to be
- 8 a controlled substance (as described in IC 35-48-4-4.6).
- 9 (B) Any stolen (IC 35-43-4-2) or converted property (IC
- 10 35-43-4-3) if the retail or repurchase value of that property is
- 11 one hundred dollars (\$100) or more.
- 12 (C) Any hazardous waste in violation of IC 13-30-10-1.5.
- 13 (D) A bomb (as defined in IC 35-31.5-2-31) or weapon of
- 14 mass destruction (as defined in IC 35-31.5-2-354) used to
- 15 commit, used in an attempt to commit, or used in a conspiracy
- 16 to commit a felony terrorist offense (as defined in
- 17 IC 35-50-2-18) or an offense under IC 35-47 as part of or in
- 18 furtherance of an act of terrorism (as defined by
- 19 IC 35-31.5-2-329).
- 20 (2) All money, negotiable instruments, securities, weapons,
- 21 communications devices, or any property used to commit, used in
- 22 an attempt to commit, or used in a conspiracy to commit a felony
- 23 terrorist offense (as defined in IC 35-50-2-18) or an offense under
- 24 IC 35-47 as part of or in furtherance of an act of terrorism or
- 25 commonly used as consideration for a violation of IC 35-48-4
- 26 (other than items subject to forfeiture under IC 16-42-20-5 or
- 27 IC 16-6-8.5-5.1, before its repeal):
- 28 (A) furnished or intended to be furnished by any person in
- 29 exchange for an act that is in violation of a criminal statute;
- 30 (B) used to facilitate any violation of a criminal statute; or
- 31 (C) traceable as proceeds of the violation of a criminal statute.
- 32 (3) Any portion of real or personal property purchased with
- 33 money that is traceable as a proceed of a violation of a criminal
- 34 statute.
- 35 (4) A vehicle that is used by a person to:
- 36 (A) commit, attempt to commit, or conspire to commit;
- 37 (B) facilitate the commission of; or
- 38 (C) escape from the commission of;
- 39 murder (IC 35-42-1-1), dealing in a controlled substance resulting
- 40 in death (IC 35-42-1-1.5), kidnapping (IC 35-42-3-2), criminal
- 41 confinement (IC 35-42-3-3), rape (IC 35-42-4-1), child molesting
- 42 (IC 35-42-4-3), or child exploitation (IC 35-42-4-4), or an offense



under IC 35-47 as part of or in furtherance of an act of terrorism.

(5) Real property owned by a person who uses it to commit any of the following as a Level 1, Level 2, Level 3, Level 4, or Level 5 felony:

(A) Dealing in or manufacturing cocaine or a narcotic drug (IC 35-48-4-1).

(B) Dealing in methamphetamine (IC 35-48-4-1.1).

(C) Manufacturing methamphetamine (IC 35-48-4-1.2).

(D) Dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2).

(E) Dealing in a schedule IV controlled substance (IC 35-48-4-3).

(F) Dealing in marijuana, hash oil, hashish, or salvia (IC 35-48-4-10).

(G) Dealing in a synthetic drug (as defined in IC 35-31.5-2-321) or synthetic drug lookalike substance (as defined in IC 35-31.5-2-321.5 (before its repeal on July 1, 2019)) under IC 35-48-4-10.5 (before its repeal on July 1, 2019).

(H) Dealing in a controlled substance resulting in death (IC 35-42-1-1.5).

(6) Equipment and recordings used by a person to commit fraud under IC 35-43-5-4(10).

(7) Recordings sold, rented, transported, or possessed by a person in violation of IC 24-4-10.

(8) Property (as defined by IC 35-31.5-2-253) or an enterprise (as defined by IC 35-45-6-1) that is the object of a corrupt business influence violation (IC 35-45-6-2).

(9) Unlawful telecommunications devices (as defined in IC 35-45-13-6) and plans, instructions, or publications used to commit an offense under IC 35-45-13.

(10) Any equipment, including computer equipment and cellular telephones, used for or intended for use in preparing, photographing, recording, videotaping, digitizing, printing, copying, or disseminating matter in violation of IC 35-42-4.

(11) Destructive devices used, possessed, transported, or sold in violation of IC 35-47.5.

(12) Tobacco products that are sold in violation of IC 24-3-5, tobacco products that a person attempts to sell in violation of IC 24-3-5, and other personal property owned and used by a person to facilitate a violation of IC 24-3-5.

(13) Property used by a person to commit counterfeiting or



1 forgery in violation of IC 35-43-5-2.

2 (14) After December 31, 2005, if a person is convicted of an
3 offense specified in IC 25-26-14-26(b) or IC 35-43-10, the
4 following real or personal property:

5 (A) Property used or intended to be used to commit, facilitate,
6 or promote the commission of the offense.

7 (B) Property constituting, derived from, or traceable to the
8 gross proceeds that the person obtained directly or indirectly
9 as a result of the offense.

10 (15) Except as provided in subsection (e), a vehicle used by a
11 person who operates the vehicle:

12 (A) while intoxicated, in violation of IC 9-30-5-1 through
13 IC 9-30-5-5, if in the previous five (5) years the person has two
14 (2) or more prior unrelated convictions for operating a motor
15 vehicle while intoxicated in violation of IC 9-30-5-1 through
16 IC 9-30-5-5; or

17 (B) on a highway while the person's driving privileges are
18 suspended in violation of IC 9-24-19-2 through IC 9-24-19-3,
19 if in the previous five (5) years the person has two (2) or more
20 prior unrelated convictions for operating a vehicle while
21 intoxicated in violation of IC 9-30-5-1 through IC 9-30-5-5.

22 If a court orders the seizure of a vehicle under this subdivision,
23 the court shall transmit an order to the bureau of motor vehicles
24 recommending that the bureau not permit a vehicle to be
25 registered in the name of the person whose vehicle was seized
26 until the person possesses a current driving license (as defined in
27 IC 9-13-2-41).

28 (16) The following real or personal property:

29 (A) Property used or intended to be used to commit, facilitate,
30 or promote the commission of an offense specified in
31 IC 23-14-48-9, IC 30-2-9-7(b), IC 30-2-10-9(b), or
32 IC 30-2-13-38(f).

33 (B) Property constituting, derived from, or traceable to the
34 gross proceeds that a person obtains directly or indirectly as a
35 result of an offense specified in IC 23-14-48-9, IC 30-2-9-7(b),
36 IC 30-2-10-9(b), or IC 30-2-13-38(f).

37 (17) An automated sales suppression device (as defined in
38 IC 35-43-5-4.6(a)(1) or phantom-ware (as defined in
39 IC 35-43-5-4.6(a)(3)).

40 (18) Real or personal property, including a vehicle, that is used by
41 a person to:

42 (A) commit, attempt to commit, or conspire to commit;



(B) facilitate the commission of; or

(C) escape from the commission of;

a violation of IC 35-42-3.5-1 through IC 35-42-3.5-1.4 (human trafficking) or IC 35-45-4-4 (promoting prostitution).

(19) Real or personal property that is used by a person to finance or facilitate the financing of a crime committed by a person while in an area where a lawful or unlawful demonstration, protest, or assembly was taking place.

(b) A vehicle used by any person as a common or contract carrier in the transaction of business as a common or contract carrier is not subject to seizure under this section, unless it can be proven by a preponderance of the evidence that the owner of the vehicle knowingly permitted the vehicle to be used to engage in conduct that subjects it to seizure under subsection (a).

(c) Equipment under subsection (a)(10) may not be seized unless it can be proven by a preponderance of the evidence that the owner of the equipment knowingly permitted the equipment to be used to engage in conduct that subjects it to seizure under subsection (a)(10).

(d) Money, negotiable instruments, securities, weapons, communications devices, or any property commonly used as consideration for a violation of IC 35-48-4 found near or on a person who is committing, attempting to commit, or conspiring to commit any of the following offenses shall be admitted into evidence in an action under this chapter as prima facie evidence that the money, negotiable instrument, security, or other thing of value is property that has been used or was to have been used to facilitate the violation of a criminal statute or is the proceeds of the violation of a criminal statute:

(1) IC 35-42-1-1.5 (dealing in a controlled substance resulting in death).

(2) IC 35-48-4-1 (dealing in or manufacturing cocaine or a narcotic drug).

(3) IC 35-48-4-1.1 (dealing in methamphetamine).

(4) IC 35-48-4-1.2 (manufacturing methamphetamine).

(5) IC 35-48-4-2 (dealing in a schedule I, II, or III controlled substance).

(6) IC 35-48-4-3 (dealing in a schedule IV controlled substance).

(7) IC 35-48-4-4 (dealing in a schedule V controlled substance) as a Level 4 felony.

(8) IC 35-48-4-6 (possession of cocaine or a narcotic drug) as a Level 3, Level 4, or Level 5 felony.

(9) IC 35-48-4-6.1 (possession of methamphetamine) as a Level 3, Level 4, or Level 5 felony.



(10) IC 35-48-4-10 (dealing in marijuana, hash oil, hashish, or salvia) as a Level 5 felony.

(11) IC 35-48-4-10.5 (before its repeal on July 1, 2019) (dealing in a synthetic drug or synthetic drug lookalike substance) as a Level 5 felony or Level 6 felony (or as a Class C felony or Class D felony under IC 35-48-4-10 before its amendment in 2013).

(e) A vehicle operated by a person who is not:

(1) an owner of the vehicle; or

(2) the spouse of the person who owns the vehicle;

is not subject to seizure under subsection (a)(15) unless it can be proven by a preponderance of the evidence that the owner of the vehicle knowingly permitted the vehicle to be used to engage in conduct that subjects it to seizure under subsection (a)(15).

SECTION 3. IC 35-31.5-2-33.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 33.3. "Camp", for purposes of IC 35-44.1-2-14, has the meaning set forth in IC 35-44.1-2-14.**

SECTION 4. IC 35-31.5-2-311.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 311.5. "State capitol and related property", for purposes of IC 35-44.1-2-14, has the meaning set forth in IC 35-44.1-2-14.**

SECTION 5. IC 35-31.5-2-341, AS ADDED BY P.L.114-2012, SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 341. "Unlawful assembly" ~~for purposes of IC 35-45-1,~~ has the meaning set forth in IC 35-45-1-1.

SECTION 6. IC 35-42-2-1, AS AMENDED BY P.L.142-2020, SECTION 63, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 1. (a) As used in this section, "public safety official" means:

(1) a law enforcement officer, including an alcoholic beverage enforcement officer;

(2) an employee of a penal facility or a juvenile detention facility (as defined in IC 31-9-2-71);

(3) an employee of the department of correction;

(4) a probation officer;

(5) a parole officer;

(6) a community corrections worker;

(7) a home detention officer;

(8) a department of child services employee;

(9) a firefighter;

(10) an emergency medical services provider;



- (11) a judicial officer;
- (12) a bailiff of any court; or
- (13) a special deputy (as described in IC 36-8-10-10.6).

(b) As used in this section, "relative" means an individual related by blood, half-blood, adoption, marriage, or remarriage, including:

- (1) a spouse;
- (2) a parent or stepparent;
- (3) a child or stepchild;
- (4) a grandchild or stepgrandchild;
- (5) a grandparent or stepgrandparent;
- (6) a brother, sister, stepbrother, or stepsister;
- (7) a niece or nephew;
- (8) an aunt or uncle;
- (9) a daughter-in-law or son-in-law;
- (10) a mother-in-law or father-in-law; or
- (11) a first cousin.

(c) Except as provided in subsections (d) through (k), a person who knowingly or intentionally:

- (1) touches another person in a rude, insolent, or angry manner;
- or
- (2) in a rude, insolent, or angry manner places any bodily fluid or waste on another person;

commits battery, a Class B misdemeanor.

(d) The offense described in subsection (c)(1) or (c)(2) is a Class A misdemeanor if it:

- (1) results in bodily injury to any other person; or
- (2) is committed against a member of a foster family home (as defined in IC 35-31.5-2-139.3) by a person who is not a resident of the foster family home if the person who committed the offense is a relative of a person who lived in the foster family home at the time of the offense.

(e) The offense described in subsection (c)(1) or (c)(2) is a Level 6 felony if one (1) or more of the following apply:

- (1) The offense results in moderate bodily injury to any other person.
- (2) The offense is committed against a public safety official while the official is engaged in the official's official duty.
- (3) The offense is committed against a person less than fourteen (14) years of age and is committed by a person at least eighteen (18) years of age.
- (4) The offense is committed against a person of any age who has a mental or physical disability and is committed by a person



1 having the care of the person with the mental or physical
 2 disability, whether the care is assumed voluntarily or because of
 3 a legal obligation.

4 (5) The offense is committed against an endangered adult (as
 5 defined in IC 12-10-3-2).

6 (6) The offense:

7 (A) is committed against a member of a foster family home (as
 8 defined in IC 35-31.5-2-139.3) by a person who is not a
 9 resident of the foster family home if the person who committed
 10 the offense is a relative of a person who lived in the foster
 11 family home at the time of the offense; and

12 (B) results in bodily injury to the member of the foster family.

13 (f) The offense described in subsection (c)(2) is a Level 6 felony if
 14 the person knew or recklessly failed to know that the bodily fluid or
 15 waste placed on another person was infected with hepatitis,
 16 tuberculosis, or human immunodeficiency virus.

17 (g) The offense described in subsection (c)(1) or (c)(2) is a Level 5
 18 felony if one (1) or more of the following apply:

19 (1) The offense results in serious bodily injury to another person.

20 (2) The offense is committed with a deadly weapon.

21 (3) The offense results in bodily injury to a pregnant woman if the
 22 person knew of the pregnancy.

23 (4) The person has a previous conviction for a battery offense
 24 included in this chapter against the same victim.

25 (5) The offense results in bodily injury to one (1) or more of the
 26 following:

27 (A) A public safety official while the official is engaged in the
 28 official's official duties.

29 (B) A person less than fourteen (14) years of age if the offense
 30 is committed by a person at least eighteen (18) years of age.

31 (C) A person who has a mental or physical disability if the
 32 offense is committed by an individual having care of the
 33 person with the disability, regardless of whether the care is
 34 assumed voluntarily or because of a legal obligation.

35 (D) An endangered adult (as defined in IC 12-10-3-2).

36 (h) The offense described in subsection (c)(2) is a Level 5 felony if:

37 (1) the person knew or recklessly failed to know that the bodily
 38 fluid or waste placed on another person was infected with
 39 hepatitis, tuberculosis, or human immunodeficiency virus; and

40 (2) the person placed the bodily fluid or waste on a public safety
 41 official.

42 (i) The offense described in subsection (c)(1) or (c)(2) is a Level 4



felony if it results in serious bodily injury to an endangered adult (as defined in IC 12-10-3-2).

(j) The offense described in subsection (c)(1) or (c)(2) is a Level 3 felony if it results in serious bodily injury to a person less than fourteen (14) years of age if the offense is committed by a person at least eighteen (18) years of age.

(k) The offense described in subsection (c)(1) or (c)(2) is a Level 2 felony if it results in the death of one (1) or more of the following:

(1) A person less than fourteen (14) years of age if the offense is committed by a person at least eighteen (18) years of age.

(2) An endangered adult (as defined in IC 12-10-3-2).

(l) In addition to any criminal penalty imposed for a violation of this section, the court shall order that a person convicted of a battery against a law enforcement officer, firefighter, or emergency medical services provider, while the officer, firefighter, or provider is engaged in his or her official duties, be imprisoned for at least:

(1) thirty (30) days; or

(2) ninety (90) days, if the offense resulted in serious bodily injury to the officer, firefighter, or provider.

In addition, the court shall order the person convicted to make restitution to the victim of the crime under IC 35-50-5-3.

(m) Notwithstanding:

(1) IC 35-50-2-2.2 and IC 35-50-3-1, imprisonment imposed under subsection (l) may not be suspended; and

(2) IC 35-50-6, a person does not earn good time credit while serving imprisonment imposed under subsection (l).

SECTION 7. IC 35-43-1-2, AS AMENDED BY P.L.111-2018, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 2. (a) A person who recklessly, knowingly, or intentionally damages or defaces property of another person without the other person's consent commits criminal mischief, a Class B misdemeanor. However, the offense is:

(1) a Class A misdemeanor if the pecuniary loss is at least seven hundred fifty dollars (\$750) but less than fifty thousand dollars (\$50,000); ~~and~~

(2) a Level 6 felony if:

(A) the pecuniary loss is at least fifty thousand dollars (\$50,000);

(B) the damage causes a substantial interruption or impairment of utility service rendered to the public;

(C) the damage is to a public record; ~~or~~



- 1 **(D) the offense is committed by a person while in an area**
 2 **where a lawful or unlawful demonstration, protest, or**
 3 **assembly was taking place; or**
 4 ~~(D)~~ **(E) the damage is to a law enforcement animal (as defined**
 5 **in IC 35-46-3-4.5); and**
 6 **(3) a Level 3 felony if:**
 7 **(A) the offense is committed by a person while in an area**
 8 **where a lawful or unlawful demonstration, protest, or**
 9 **assembly was taking place; and**
 10 **(B) the pecuniary loss is at least fifty thousand dollars**
 11 **(\$50,000).**
 12 (b) A person who recklessly, knowingly, or intentionally damages:
 13 (1) a structure used for religious worship without the consent of
 14 the owner, possessor, or occupant of the property that is damaged;
 15 (2) a school or community center without the consent of the
 16 owner, possessor, or occupant of the property that is damaged;
 17 (3) the property of an agricultural operation (as defined in
 18 IC 32-30-6-1) without the consent of the owner, possessor, or
 19 occupant of the property that is damaged;
 20 (4) the grounds:
 21 (A) adjacent to; and
 22 (B) owned or rented in common with;
 23 a structure or facility identified in subdivisions (1) through (3)
 24 without the consent of the owner, possessor, or occupant of the
 25 property that is damaged;
 26 (5) personal property contained in a structure or located at a
 27 facility identified in subdivisions (1) through (3) without the
 28 consent of the owner, possessor, or occupant of the property that
 29 is damaged;
 30 (6) property that is vacant real property (as defined in
 31 IC 36-7-36-5) or a vacant structure (as defined in IC 36-7-36-6);
 32 or
 33 (7) property after the person has been denied entry to the property
 34 by a court order that was issued:
 35 (A) to the person; or
 36 (B) to the general public by conspicuous posting on or around
 37 the property in areas where a person could observe the order
 38 when the property has been designated by a municipality or
 39 county enforcement authority to be a vacant property, an
 40 abandoned property, or an abandoned structure (as defined in
 41 IC 36-7-36-1);
 42 commits institutional criminal mischief, a Class A misdemeanor.



1 However, the offense is a Level 6 felony if the pecuniary loss (or
 2 property damage, in the case of an agricultural operation) is at least
 3 seven hundred fifty dollars (\$750) but less than fifty thousand dollars
 4 (\$50,000), and a Level 5 felony if the pecuniary loss (or property
 5 damage, in the case of an agricultural operation) is at least fifty
 6 thousand dollars (\$50,000).

7 (c) A person who recklessly, knowingly, or intentionally damages
 8 property:

9 (1) during the dealing or manufacture of or attempted dealing or
 10 manufacture of a controlled substance; and

11 (2) by means of a fire or an explosion;

12 commits controlled substances criminal mischief, a Level 6 felony.
 13 However, the offense is a Level 5 felony if the offense results in
 14 moderate bodily injury to any person other than a defendant.

15 (d) If a person is convicted of an offense under this section that
 16 involves the use of graffiti, the court may, in addition to any other
 17 penalty, order that the person's operator's license be suspended or
 18 invalidated by the bureau of motor vehicles for not more than one (1)
 19 year.

20 (e) The court may rescind an order for suspension or invalidation
 21 under subsection (d) and allow the person to receive a license or permit
 22 before the period of suspension or invalidation ends if the court
 23 determines that the person has removed or painted over the graffiti or
 24 has made other suitable restitution.

25 (f) For purposes of this section, "pecuniary loss" includes:

26 (1) the total costs incurred in inspecting, cleaning, and
 27 decontaminating property contaminated by a pollutant; and

28 (2) a reasonable estimate of all additional costs not already
 29 incurred under subdivision (1) that are necessary to inspect, clean,
 30 and decontaminate property contaminated by a pollutant, to the
 31 extent that the property has not already been:

32 (A) cleaned;

33 (B) decontaminated; or

34 (C) both cleaned and decontaminated.

35 The term includes inspection, cleaning, or decontamination conducted
 36 by a person certified under IC 16-19-3.1.

37 SECTION 8. IC 35-44.1-2-14 IS ADDED TO THE INDIANA
 38 CODE AS A NEW SECTION TO READ AS FOLLOWS
 39 [EFFECTIVE JULY 1, 2021]: **Sec. 14. (a) The following definitions**
 40 **apply throughout this section:**

41 (1) "Camp" means doing one (1) or more of the following at
 42 any time between 10 p.m. and 7 a.m.:



- 1 (A) Erecting, placing, maintaining, leaving, allowing to
- 2 remain, or using a piece of furniture, tent, raised tarp, or
- 3 other temporary shelter, structure, or furniture.
- 4 (B) Sleeping or making preparation to sleep, including
- 5 laying down a sleeping bag, blanket, or other material used
- 6 for bedding.
- 7 (C) Carrying on cooking activities, whether by fire or use
- 8 of artificial means, such as a propane stove or other heat
- 9 producing portable cooking equipment.
- 10 (D) Making a fire or preparing to make a fire.
- 11 (E) Doing any digging or earth breaking.
- 12 (2) "Commission" means the Indiana White River state park
- 13 development commission created as a body corporate and
- 14 politic under IC 14-13-1-5.
- 15 (3) "Excluded locations" means the following:
- 16 (A) The Indianapolis Zoo, and structures and land under
- 17 its control.
- 18 (B) The National Collegiate Athletic Association
- 19 Headquarters and Hall of Champions and the land under
- 20 its control.
- 21 (C) The Indiana State Museum and the land under its
- 22 control.
- 23 (D) The Eiteljorg Museum and the land under its control.
- 24 (E) Victory Field and the land and structures under the
- 25 control of Indians, Inc.
- 26 (F) Public sidewalks, trails, paths, and walkways (which
- 27 include the cultural trail along Washington Street) under
- 28 the control of the city of Indianapolis.
- 29 (4) "Indiana government center campus" means the
- 30 following:
- 31 (A) The state capitol building.
- 32 (B) The Indiana government center-north.
- 33 (C) The Indiana government center-south.
- 34 (D) The state library.
- 35 (E) The Washington Street garage.
- 36 (F) The Senate Avenue garage.
- 37 (G) The Indiana government parking surface lot
- 38 (H) The land adjacent to these buildings that is owned and
- 39 controlled by the state.
- 40 (5) "State capitol and related property" means the following:
- 41 (A) The Indiana government center campus.
- 42 (B) White River state park.



(C) War memorial plaza.

(6) "War memorial plaza" means:

(A) University Park;

(B) the Indiana World War Memorial;

(C) Veteran's Memorial Plaza;

(D) the American Legion Mall; and

(E) the U.S.S. Indianapolis Memorial;

including any building or structure located on war memorial plaza.

(7) "White River state park" means the real property, structures, improvements, and fixtures held by the commission in the name of the state and commonly known as White River State Park. The park's perimeter is described generally as follows: Starting on West Washington Street at North California Street (the street leading into the State Museum), west along West Washington Street to the White River; north and northwest along the White River to West New York Street; east on New York Street to the White River Wapahini Trail; southeast on the White River Wapahini Trail to Blake Street; north on Blake Street to the walkway at the rear of the NCAA Headquarters Building, east along the walkway to Geisendorf Street, north on Geisendorf Street to Wabash Street (University Boulevard), east on Wabash Street (University Boulevard) to Blackford Street, north on Blackford Street to West New York Street, east on West New York Street to North West Street, south on North West Street to West Washington Street, west on West Washington Street to North California Street, excepting out the excluded locations. Then, starting on West Washington Street on the west side of the White River, along the White River to West New York Street at North White River Parkway, West Drive, then southeast and then south along North White River Parkway, West Drive, to the north side of West Washington Street, east along West Washington Street to the west side of the White River, excepting out the excluded locations. Also, the real property on the south side of West Washington Street starting at South White River Parkway, West Drive, between West Washington Street and the railroad tracks, west to a point opposite the entrance to North White River Parkway, West Drive. The park includes the pedestrian bridge over the White River, the IMAX Theater at the Indiana State Museum, the surface parking lots, the parking garage, the Canal Walk



west of West Street, the Congressional Medal of Honor Memorial, and Military Park.

(b) A person who:

(1) without authorization; and

(2) having been informed, in person, by signage, by announcement, or otherwise, that camping is prohibited;

knowingly or intentionally camps on state capitol and related property commits unlawful occupation, a Class A misdemeanor.

SECTION 9. IC 35-45-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 1. As used in this chapter:

"Tumultuous conduct" means conduct that results in, or is likely to result in, serious bodily injury to a person, ~~or~~ substantial damage to property, ~~or the obstruction of law enforcement or other governmental function.~~

"Unlawful assembly" means an assembly of ~~five (5)~~ **three (3)** or more persons ~~whose common object is to commit an unlawful act, or a lawful act by unlawful means. Prior concert is not necessary to form an unlawful assembly.~~ **who engage in tumultuous conduct.**

SECTION 10. IC 35-45-1-2, AS AMENDED BY P.L.158-2013, SECTION 521, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 2. (a) A person who, being a member of an unlawful assembly, recklessly, knowingly, or intentionally engages in tumultuous conduct commits rioting, a Class A misdemeanor. However, the offense is:

(1) a Level 6 felony if it is committed:

(A) while armed with a deadly weapon; ~~or~~

(B) by a person who, with intent to conceal the person's identity, wears a mask, covering, or other device that conceals a person's mouth and all or part of the person's nose; and

(2) a Level 5 felony if:

(A) the unlawful assembly consists of at least seven (7) persons; and

(B) the offense results in:

(i) bodily injury to another person; or

(ii) property damage of at least seven hundred fifty dollars (\$750).

(b) In addition to any criminal penalty imposed for a violation of this section, the court shall order that the convicted person:

(1) be imprisoned for at least thirty (30) days; and

(2) make restitution to the victim of the crime under



IC 35-50-5-3. Restitution under this subdivision must include any additional costs of insurance.

(c) Notwithstanding:

- (1) IC 35-50-2-2.2 and IC 35-50-3-1, imprisonment imposed under subsection (b) may not be suspended; and**
- (2) IC 35-50-6, a person does not earn good time credit while serving imprisonment imposed under subsection (b).**

SECTION 11. IC 35-45-1-3, AS AMENDED BY P.L.158-2013, SECTION 522, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 3. (a) A person who recklessly, knowingly, or intentionally:

- (1) engages in fighting or in tumultuous conduct;
- (2) makes unreasonable noise and continues to do so after being asked to stop; or
- (3) disrupts a lawful assembly of persons;

commits disorderly conduct, a Class B misdemeanor.

(b) The offense described in subsection (a) is a Level 6 felony if it:

- (1) adversely affects airport security; and
- (2) is committed in an airport (as defined in IC 8-21-1-1) or on the premises of an airport, including in a parking area, a maintenance bay, or an aircraft hangar.

(c) The offense described in subsection (a) is a Level 6 felony if it:

- (1) is committed within five hundred (500) feet of:
 - (A) the location where a burial is being performed;
 - (B) a funeral procession, if the person described in subsection (a) knows that the funeral procession is taking place; or
 - (C) a building in which:
 - (i) a funeral or memorial service; or
 - (ii) the viewing of a deceased person;
 is being conducted; and
- (2) adversely affects the funeral, burial, viewing, funeral procession, or memorial service.

(d) The offense described in subsection (a) is a Class A misdemeanor if it is committed:

- (1) by a person while in an area where a lawful or unlawful demonstration, protest, or assembly was taking place; and**
- (2) in a place of public accommodation.**

SECTION 12. IC 35-45-2-1, AS AMENDED BY P.L.66-2019, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 1. (a) A person who communicates a threat with the intent:

- (1) that another person engage in conduct against the other



- 1 person's will;
- 2 (2) that another person be placed in fear of retaliation for a prior
- 3 lawful act;
- 4 (3) of:
- 5 (A) causing:
- 6 (i) a dwelling, a building, or other structure; or
- 7 (ii) a vehicle;
- 8 to be evacuated; or
- 9 (B) interfering with the occupancy of:
- 10 (i) a dwelling, building, or other structure; or
- 11 (ii) a vehicle; or
- 12 (4) that another person be placed in fear that the threat will be
- 13 carried out, if the threat is a threat described in:
- 14 (A) subsection (d)(1) through (d)(5); or
- 15 (B) subsection (d)(7) through (d)(8);
- 16 commits intimidation, a Class A misdemeanor.
- 17 (b) However, the offense is a:
- 18 (1) Level 6 felony if:
- 19 (A) the threat is to commit a forcible felony;
- 20 (B) the subject of the threat or the person to whom the threat
- 21 is communicated is a witness (or the spouse or child of a
- 22 witness) in any pending criminal proceeding against the
- 23 person making the threat;
- 24 (C) the threat is communicated because of the occupation,
- 25 profession, employment status, or ownership status of a person
- 26 or the threat relates to or is made in connection with the
- 27 occupation, profession, employment status, or ownership
- 28 status of a person;
- 29 (D) the person has a prior unrelated conviction for an offense
- 30 under this section concerning the same victim; ~~or~~
- 31 (E) the threat is communicated using property, including
- 32 electronic equipment or systems, of a school corporation or
- 33 other governmental entity; **or**
- 34 **(F) the threat is communicated by a person while in an**
- 35 **area where a lawful or unlawful demonstration, protest, or**
- 36 **assembly was taking place; and**
- 37 (2) Level 5 felony if:
- 38 (A) while committing it, the person draws or uses a deadly
- 39 weapon;
- 40 (B) the subject of the threat or the person to whom the threat
- 41 is communicated:
- 42 (i) is a judicial officer or bailiff of any court; or



- 1 (ii) is a prosecuting attorney or a deputy prosecuting
 2 attorney;
 3 and the threat relates to the person's status as a judicial officer,
 4 bailiff, prosecuting attorney, or deputy prosecuting attorney, or
 5 is made in connection with the official duties of the judicial
 6 officer, bailiff, prosecuting attorney, or deputy prosecuting
 7 attorney; or
 8 (C) the threat is:
 9 (i) to commit terrorism; or
 10 (ii) made in furtherance of an act of terrorism.
 11 (c) "Communicates" includes posting a message electronically,
 12 including on a social networking web site (as defined in
 13 IC 35-31.5-2-307).
 14 (d) "Threat" means an expression, by words or action, of an
 15 intention to:
 16 (1) unlawfully injure the person threatened or another person, or
 17 damage property;
 18 (2) unlawfully subject a person to physical confinement or
 19 restraint;
 20 (3) commit a crime;
 21 (4) unlawfully withhold official action, or cause such withholding;
 22 (5) unlawfully withhold testimony or information with respect to
 23 another person's legal claim or defense, except for a reasonable
 24 claim for witness fees or expenses;
 25 (6) expose the person threatened to hatred, contempt, disgrace, or
 26 ridicule;
 27 (7) falsely harm the credit or business reputation of a person; or
 28 (8) cause the evacuation of a dwelling, a building, another
 29 structure, or a vehicle. For purposes of this subdivision, the term
 30 includes an expression that would cause a reasonable person to
 31 consider the evacuation of a dwelling, a building, another
 32 structure, or a vehicle, even if the dwelling, building, structure, or
 33 vehicle is not evacuated.
 34 SECTION 13. IC 35-50-2-19 IS ADDED TO THE INDIANA
 35 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 36 [EFFECTIVE JULY 1, 2021]: **Sec. 19. (a) The state may seek, on a**
 37 **page separate from the rest of a charging instrument, to have a**
 38 **person who allegedly committed battery while in an area where a**
 39 **lawful or unlawful demonstration, protest, or assembly was taking**
 40 **place, sentenced to an additional fixed term of imprisonment if the**
 41 **state can show beyond a reasonable doubt that the person**
 42 **committed the offense while in an area where a lawful or unlawful**



demonstration, protest, or assembly was taking place.

(b) If the person is convicted of the offense in a jury trial, the jury shall reconvene to hear evidence in the enhancement hearing. If the trial was to the court, or the judgment was entered on a guilty plea, the court alone shall hear evidence in the enhancement hearing.

(c) If the jury (if the hearing is by jury) or the court (if the hearing is to the court alone) finds that the state has proved beyond a reasonable doubt that the person committed battery while in an area where a lawful or unlawful demonstration, protest, or assembly was taking place, the court shall:

(1) sentence the person to an additional fixed term of imprisonment of not more than two (2) years; or

(2) if the offense resulted in bodily injury to a public safety official acting within the scope of the public safety official's duty, sentence the person to an additional fixed term of imprisonment of at least six (6) months, and not more than three (3) years.

(d) A sentence imposed under this section shall run consecutively to the underlying sentence.

(e) A term of imprisonment imposed under subsection (c)(2) may not be suspended.

SECTION 14. IC 36-8-2.7 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]:

Chapter 2.7. Defunding Law Enforcement

Sec. 1. As used in this chapter, "defund a law enforcement agency" means to reduce significantly the money allocated to a law enforcement agency, from appropriations or otherwise, when the reduction is not justified by:

(1) a decline in tax revenue;

(2) a decline in the crime rate within the territory of the unit; or

(3) the availability of another funding source for the law enforcement agency.

Sec. 2. A unit may not defund a law enforcement agency.

Sec. 3. Any person who believes that a unit is defunding a law enforcement agency may bring an action in a circuit or superior court of the county in which the unit is located to enjoin the unit from defunding the law enforcement agency.

Sec. 4. (a) In an action brought under section 3 of this chapter, there is a rebuttable presumption that a unit is defunding a law



1 enforcement agency if the unit reduces the funding available to the
2 law enforcement agency by five percent (5%) or more from the
3 amount budgeted in the most recent budget.

4 (b) If a court finds that the unit has defunded a law enforcement
5 agency, the court shall:

6 (1) enjoin the unit from defunding the law enforcement
7 agency; and

8 (2) require the unit to fund the law enforcement agency in an
9 amount equal to:

10 (A) the amount budgeted to the law enforcement agency in
11 the previous budget; and

12 (B) an adjustment to the amount described in clause (A),
13 calculated based on the increase or decrease in:

14 (i) the Consumer Price Index (CPI), consistent with 42
15 U.S.C. 7661a, as calculated from the date of the previous
16 budget; or

17 (ii) tax receipts, grants, and other funds available to the
18 unit, as calculated from the date of the previous budget;
19 whichever is less.

